

ESTTA Tracking number: **ESTTA404370**

Filing date: **04/19/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Darford Industries Ltd.		
Entity	Corporation	Citizenship	Canada
Address	1150 Kalamalka Lake Road, Suite 100 Vernon, British Columbia, V1T 6V2 CANADA		

Attorney information	Kevin G. Smith, Esq. SUGHRUE MION PLLC 2100 Pennsylvania Avenue, N.W., Suite 800 Washington, DC 20037 UNITED STATES vmullineaux@sughrue.com, tm@sughrue.com, ksmith@sughrue.com Phone:2022937060
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Applicant Information

Application No	85193728	Publication date	04/19/2011
Opposition Filing Date	04/19/2011	Opposition Period Ends	05/19/2011
Applicant	True Food, LLC 8752 Anchorage Dr. Huntington Beach, CA 92646 UNITED STATES		

Goods/Services Affected by Opposition


Class 031. All goods and services in the class are opposed, namely: Dog food

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3474006	Application Date	07/14/2006
Registration Date	07/22/2008	Foreign Priority Date	NONE
Word Mark	TRUE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 031. First use: First Use: 2008/02/12 First Use In Commerce: 2008/03/31 Pet food and edible pet treats

Attachments	78930013#TMSN.jpeg (1 page)(bytes) H00033 Opposition.pdf (8 pages)(540937 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Kevin G. Smith/
Name	Kevin G. Smith, Esq.
Date	04/19/2011

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re U.S. Application No. 85/193728

Mark: TRUE THE BEST FOOD FOR YOUR DOG, HONEST.

Darford Industries Ltd.,

Opposer,

v.

True Food, LLC,

Applicant.

Opposition No. _____

BOX TTAB FEE

Commissioner for Trademarks

P. O. Box 1451

Alexandria, Virginia 22313-1451

NOTICE OF OPPOSITION

Darford Industries Ltd. ("Opposer"), is a Canadian corporation, with its principal place of business at 1150 Kalamalka Lake Road, Suite 100, Vernon, BC V1T 6V2, Canada. Opposer believes it would be being damaged by the registration of the mark shown in Application Serial No. 85/193728 filed December 8, 2010 and published in the Official Gazette of April 19, 2011, and hereby opposes same.

As grounds for the opposition, it is alleged that:

1. Opposer is a manufacturer of pet food and related products.
2. Since as early as February 12, 2008, and prior to any date of first use upon which applicant can rely, opposer has continuously used in commerce the trademark TRUE for dog food and edible pet treats.

3. As a result of opposer's long use of the TRUE trademark for "pet food and edible pet treats" in Class 31, consumers have come to exclusively associate TRUE dog food and edible pet treats with opposer.

4. Opposer's TRUE trademark is a significant symbol of opposer's business, fame and good will associated with that business.

5. Darford is the owner of U.S. Registration No. 3,474,006 for the mark TRUE, dated July 22, 2008 for "pet foods and edible pet treats" in International Class 31, which registration is in full force and effect.

6. Opposer will rely on U.S. Registration No. 3,474,006 in this opposition proceeding. A true and correct copy of the foregoing registration, taken from the PTO TARR database, is attached hereto as Exhibit A.

7. As a result of opposer's long use of its TRUE trademark, and by virtue of the promotion, sales and distribution of TRUE pet foods and edible pet treats, opposer's TRUE trademark has become exclusively associated with such goods originating from opposer.

8. Notwithstanding opposer's long prior use and registration of its TRUE mark, applicant, on December 8, 2010 applied to register TRUE THE BEST FOOD FOR YOUR DOG, HONEST. That application was assigned Serial No. 85/193,728 and was filed based on an intent to use (Trademark Act Section 1(b)) for "dog food" in Class 31. The application was published for opposition on April 19, 2011.

9. Opposer is entitled to a priority date of July 14, 2006, the filing date of its intent to use application, Serial No. 78/930,031, which application matured to U. S. Registration No. 3,476,006.

10. Opposer's constructive use filing date and opposer's use of the TRUE trademark long pre date applicant's filing date in the opposed TRUE THE BEST FOOD FOR YOUR DOG,

HONEST. application. The goods set forth in Application Serial No. 85/193,728 are identical to opposer's goods set forth in its pleaded registration, and on information and belief, the products sold under opposer's trademark and applicant's alleged TRUE THE BEST FOOD FOR YOUR DOG, HONEST. trademark are identical products that are marketed to the same consumers through the same channels of distribution.

11. Due to the substantial similarity of opposer's TRUE mark and applicant's alleged TRUE THE BEST FOOD FOR YOUR DOG, HONEST. and because the goods of opposer and applicant are identical, applicant's registration and use of TRUE THE BEST FOOD FOR YOUR DOG, HONEST. is likely to cause confusion as to the source of origin of the goods bearing the mark and/or the relationship between applicant and opposer, and/or whether applicant is related to or licensed by opposer when, in truth, applicant's goods do not originate with opposer, opposer is not related to applicant, and opposer has not approved or licensed applicant's use of the mark TRUE THE BEST FOOD FOR YOUR DOG, HONEST.

12. Applicant's mark TRUE THE BEST FOOD FOR YOUR DOG, HONEST., as proposed for use in connection with the goods set forth in the application, is confusingly and deceptively similar to opposer's previously used and registered mark TRUE.

13. Registration of the opposed application is barred by the provisions of Section 2(d) of the Trademark Act of 1946, as amended, for the reason it consists of, or comprises, a mark that so resembles a mark previously used or registered in the United States by opposer, and not abandoned, as to be likely, when applied to the goods of applicant, to cause confusion, mistake or deception.

14. By virtue of opposer's registration for the mark TRUE, which registration claims a filing date of July 14, 2006, opposer clearly has priority over applicant, whose application for

the mark TRUE THE BEST FOOD FOR YOUR DOG, HONEST., was filed on December 8, 2010.

15. Opposer will be damaged and harmed by the registration of applicant's TRUE THE BEST FOOD FOR YOUR DOG, HONEST. mark in International Class 31.

WHEREFORE, opposer respectfully prays that this opposition be sustained and the registration of Application Serial No. 85/193,728 be denied.

Respectfully submitted,

DARFORD INDUSTRIES LTD.

By:


Kevin G. Smith

Jody H. Drake

Gary D. Krugman

Attorney for Opposer

SUGHRUE MION, PLLC

2100 Pennsylvania Avenue, N.W.

Washington, D.C. 20037-3202

Phone: (202) 293-7060

Fax: (202) 293-7860

Date: April 9, 2011.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing NOTICE OF OPPOSITION has been served on applicant and applicant's attorney of record this 19th day of April, 2011 via first class mail, postage prepaid to:

True Food, LLC
8752 Anchorage Drive
Huntington Beach, CA 92646

Hani Z. Sayed
Rutan & Tucker, LLP
611 Anton Blvd, Suite 1400
Costa Mesa, CA 92626-1931
Attorney of Record for applicant


Valerie L. Mullineaux

EXHIBIT A

Thank you for your request. Here are the latest results from the [TARR web server](#).

This page was generated by the TARR system on 2011-04-19 07:59:08 ET

Serial Number: 78930013 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 3474006

Mark

TRUE

(words only): TRUE

Standard Character claim: Yes

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2008-07-22

Filing Date: 2006-07-14

Transformed into a National Application: No

Registration Date: 2008-07-22

Register: Principal

Law Office Assigned: LAW OFFICE 113

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2008-06-19

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. [Darford Industries Ltd.](#)

Address:

[Darford Industries Ltd.](#)
107-1710 Kosmina Road
Vernon BC V1T 8T2
Canada

Legal Entity Type: [Corporation](#)
State or Country of Incorporation: [Canada](#)

GOODS AND/OR SERVICES

International Class: [031](#)
Class Status: [Active](#)
[Pet food and edible pet treats](#)
Basis: [1\(a\)](#)
First Use Date: [2008-02-12](#)
First Use in Commerce Date: [2008-03-31](#)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

[2008-07-22 - Registered - Principal Register](#)
[2008-06-19 - Law Office Registration Review Completed](#)
[2008-06-18 - Allowed for Registration - Principal Register \(SOU accepted\)](#)
[2008-06-17 - Statement Of Use Processing Complete](#)
[2008-06-10 - Use Amendment Filed](#)
[2008-06-10 - TEAS Statement of Use Received](#)
[2008-06-03 - NOA Mailed - SOU Required From Applicant](#)
[2008-04-22 - TTAB Release Case To Trademarks](#)
[2008-04-22 - Opposition terminated for Proceeding](#)
[2008-04-22 - Opposition dismissed for Proceeding](#)
[2007-06-27 - Opposition instituted for Proceeding](#)
[2007-03-28 - Extension Of Time To Oppose Received](#)
[2007-02-27 - Published for opposition](#)
[2007-02-07 - Notice of publication](#)

2007-01-22 - Law Office Publication Review Completed

2007-01-22 - Approved For Pub - Principal Register

2007-01-19 - Teas/Email Correspondence Entered

2006-12-19 - Communication received from applicant

2007-01-19 - Assigned To LIE

2006-12-19 - TEAS Response to Office Action Received

2006-12-12 - Non-final action e-mailed

2006-12-12 - Non-Final Action Written

2006-12-12 - Assigned To Examiner

2006-07-20 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

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Correspondent

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